

information; and (2) that the evidence is material and controlling and clearly would have produced a different result if present before the original judgment.”¹

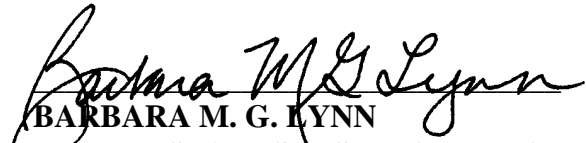
In their Rule 60(b) motion, Plaintiffs offered, as new evidence, an email from Mark Bucher, a defendant in *Sunny Corral Management, LLC, et al. v. DineAssured, LLC, et al.*, No. 3:07-CV-2050-L. Plaintiffs state that this new evidence was obtained on May 10, 2010, the day before the Court’s summary judgment ruling and entry of final judgment, and that this evidence was previously unavailable because it was withheld by Mr. Bucher until such time as he obtained a release from Plaintiffs of Plaintiffs’ claims against Bucher and his entities.

Plaintiffs do not explain how they acted with due diligence to obtain this evidence, nor have they shown that this information could not have been obtained prior to responding to Defendants’ motion for summary judgment.² Moreover, none of the evidence attached to the motion compels a different result on summary judgment.

Plaintiffs’ Motion for Relief from Judgment is therefore **DENIED**.

SO ORDERED.

June 15, 2010.


BARBARA M. G. LYNN
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF TEXAS

¹ *Hesling v. CSX Transp., Inc.*, 396 F.3d 632, 639 (5th Cir. 2005) (quoting *Goldstein v. MCI Worldcom*, 340 F.3d 238, 257 (5th Cir. 2003)).

² *Cf. Thermacor Process, L.P. v. BASF Corp.*, 576 F.3d 736 (5th Cir. 2009).